



September 4, 2001

Ms. Lyn Dean
Associate General Counsel
Lower Colorado River Authority
P.O. Box 220
Austin, Texas 78767-0220

OR2001-3896

Dear Ms. Dean:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 151474.

The Lower Colorado River Authority (the "LCRA") received a request for the following information:

- 1) "[A] complete copy of any and all documents submitted by Marshall's Harbor Marina or its counsel or its owner, Mr. Steve Morse, regarding any proposed modifications to the present permit in any shape, form or fashion."
- 2) "[C]opies of any documents submitted by Marshall's Harbor Marina or its counsel or engineers pertaining to this modification, as well as copies of any and all memorandums regarding the evaluation of these new anchor modifications by the LCRA or any of its consultants."
- 3) "What questions the LCRA staff was asking [its attorneys]."
- 4) "[W]hat the LCRA staff believes the ordered modifications were."
- 5) Notification of certain meetings so that he may attend such meetings; and

6) Certain documents that LCRA removed from the application file for the Marshall's Harbor Marina prior to a third party's review of that file.

You state that the LCRA will provide the requestor information responsive to item number four above and inform us that no information responsive to items one and two above is in existence. You believe that to the extent item three requires LCRA to answer factual questions, it is not required under the Public Information Act to do so. Concerning item five, you state that proper notice for any public meetings will be posted pursuant to the Open Meetings Act, and that additional notice will be given to the requestor only when deemed necessary. Finally, you claim that the requested information responsive to item number six is excepted from disclosure under section 552.107 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

With regard to the information you state is not currently in existence, the Public Information Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986). Nor is a governmental body required to prepare new information to respond to a request for information. Open Records Decision No. 605 (1992), 572 (1990), 416 (1984). However, a governmental body has a duty to make a good faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 at 8 (1990). As for factual questions, the Public Information Act does not require a governmental body to prepare answers to questions or to do legal research. See Open Records Decision Nos. 563 at 8 (1990) (considering request for federal and state laws and regulations), 555 at 1-2 (1990) (considering request for answers to fact questions). On the other hand, a request for records made pursuant to the Public Information Act may not be disregarded simply because a citizen does not specify the exact documents he desires. A governmental body should make a good faith effort to advise the requestor of the type of documents available so that the requestor may narrow the request. See Open Records Decision No. 87 (1975).

With regard to the information you have submitted as responsive to item six, you assert that this information is excepted from disclosure under section 552.107 of the Government Code. You also inform us that this same information was the subject of an earlier request for a ruling from this office, which we issued as Open Records Letter No. 2001-3761 (2001). As the current request seeks the identical information previously requested and ruled upon by this office in ORL 2001-3761, we conclude you must rely on that ruling as a previous determination and release the information you have submitted as Tab B in accordance with ORL 2001-3761. See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely the same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

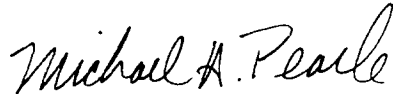
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Michael A. Pearle".

Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/seg

Ref: ID# 151474

Enc. Submitted documents

c: Mr. John T. Johnson
Attorney at Law
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(w/o enclosures)